

MAINE STATE LEGISLATURE

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May 17, 1973

E. L. Walter, Executive Director

Maine State Retirement System

Charles R. Larouche, Assistant

Attorney General

Retroactivity of Chapter 122, P.L. 1973

This replies to your memo of May 10, 1973, concerning subject. You ask whether or not Chapter 122, P.L. 1973, can be given a retroactive application. The answer to that question is negative.

It is a fundamental rule of statutory construction strictly followed by the Supreme Judicial Court of Maine,

"That all statutes will be considered to have prospective operation only, unless the legislative intent to the contrary is clearly expressed or necessarily implied from the language used"
Miller v. Falcon, 134 Me. 145, at 148.

Also see Bowman v. Geyer, 127 Me. 351, at 354; and the Opinion of the Attorney General, 1959-1960 Report, at page 68.

I find nothing in the language of Chapter 122, P.L. 1973, which either expressly or by necessary implication indicates an intent to make any part of that Chapter retroactive. 5 M.R.S.A. § 1124, subsection 1, paragraph B, subparagraph (1) prescribes certain benefits available to certain beneficiaries upon the death of a member. The eligibility requirements are expressly required to be measured as of the moment of death of the member.

Section 4 of Chapter 122, P.L. 1973, does not alter this approach and Chapter 122 is otherwise utterly devoid of any indication to make this benefit available retroactively.

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CRL:mfe

NOT A FORMAL OPINION